

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No. 13657 of 1993

For Approval and Signature:

Hon'ble MISS JUSTICE R.M.DOSHIT

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1. Whether Reporters of Local Papers may be allowed to see the judgements?
2. To be referred to the Reporter or not?
3. Whether Their Lordships wish to see the fair copy of the judgement?
4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder?
5. Whether it is to be circulated to the Civil Judge?
1 to 5 : NO

NAVINCHANDRA MANILAL SHAH

Versus

STATE OF GUJARAT

Appearance:

MR SB BRAHMBHATT for Petitioner
MR DA BAMBHANIA for Respondent No. 1
NOTICE SERVED for Respondent No. 3

CORAM : MISS JUSTICE R.M.DOSHIT
Date of decision: 05/03/98

ORAL JUDGEMENT

The petitioner before this Court is an Assistant Regional Transport Officer. He was promoted as such from the lower cadre of Motor Vehicle Inspector sometime in the year 1989. The petitioner approached this Court by

filing a writ petition being Special Civil Application No. 2910 of 1993. The said petition was disposed of on 29th April, 1993. The Court directed the respondents-Authorities to prepare Seniority List of the Assistant Regional Transport Officers for promotion to the post of Regional Transport officer on the basis of Circulars issued from time to time. Such seniority list was directed to be prepared by 30th October, 1993. The respondents-Authorities were reserved liberty to act on the basis of such seniority list. It appears that pursuant to the said direction, a provisional seniority list of Assistant Regional Transport Officers as on 1st December, 1985 was prepared and published on 29th October, 1993. Feeling aggrieved, the petitioner has preferred the present petition.

It is the grievance of the petitioner that inspite of the directions issued by this Court on 29th April, 1993 as aforesaid, the respondents-authorities have prepared a seniority list partially i.e., only as on 1st December, 1985. In other words, the officers promoted as such after 1st December, 1985 have not been included in the said seniority list. The petitioner, therefore, has contended that the respondents-authorities have only partially complied with the order of 29th April, 1993 and has prayed for a direction to prepare proper seniority list of Assistant Regional Transport Officers on the basis of circulars issued from time to time. The petitioner has also sought a declaration that the petitioner had passed the Departmental Examination, a pre-requisite for promotion to the post of Assistant Regional Transport Officer, in the year 1977 and his name should be included in the seniority list on the basis of the date of his passing the examination in accordance with the Rule VI as it stood prior to its amendment in the year 1982.

It appears that pending this petition, the respondents-authorities have prepared a further Provisional seniority list of Assistant Regional Transport Officers for the period from 2-12-1985 to 1-1-1990 and the petitioner has been included in the said seniority list at serial no. 31. Hence, it is apparent that the Provisional seniority list as on 1.1.1990 has been prepared and published by the respondents-authorities and the petitioner has found his placement at serial no. 31. In my view, there being no challenge to the placement of the petitioner at serial no. 31; as aforesaid, this petition should not survive.

Mr. Brambhatt, the learned counsel appearing for

the petitioner has contended that irrespective of challenge to the seniority list prepared as on 1.1.1990 and the petitioner's placement therein, the petitioner's petition still survives. The declaration sought for by the petitioner should be granted to him after considering the relevant rules. I am afraid, I cannot accept the contention raised by Mr. Brambhatt. Unless it is shown that the petitioner's placement at serial no. 31 is contrary to the rules governing Seniority, the exercise would be academic. Further, the seniority list in question is merely a provisional Seniority List and petitioner can as well raise objection against such a list before the Competent Authority. In that view of the matter also, challenge to a provisional Seniority List need not be entertained by this Court.

It is not known whether the petitioner has lodged any objection and whether it is considered or not. In any view of the matter, if the petitioner has submitted his objections against the said Seniority list, the respondents-authorities would certainly consider the same in accordance with law. In the event the petitioner is still aggrieved, he can always challenge the final seniority list that may be prepared and published by the respondents-authorities. I therefore, need not dwell upon the declaration sought for by the petitioner in the present petition. Petition is, therefore, dismissed. Rule is discharged.

Prakash*